



North Carolina Department of Environment and Natural Resources

Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

CERTIFIED MAIL
Return Receipt Requested

April 11, 2012

Mr. Randy Badiuk
Harold Marcus Ltd.
15124 Longwood Road
Bothwell, Ontario N0P1C0

Re: **NOTICE TO CEASE AND DESIST ALL IMPROPER DISCHARGING OR DISPOSAL OF LIQUID CHEMICALS OR OTHER HAZARDOUS SUBSTANCES AND TO BEGIN INITIAL ABATEMENT**

I-26 (Eastbound) Sulfuric Acid Spill
Peter Guice Memorial Bridge – Green River
East Flat Rock, Henderson County, NC
IHSB No. Pending

Dear Mr. Badiuk:

The Division of Waste Management's Superfund Section, Inactive Hazardous Sites Branch ("Branch") was notified of a recent spill of sulfuric acid on Interstate 26 eastbound at the Peter Guice Memorial Green River Bridge in East Flat Rock, Henderson County, North Carolina by you, your agents or employees. The spill occurred as a result of the wreck of a tanker truck which overturned near the entrance to Peter Guice Memorial Green River Bridge on April 3, 2012. The tanker truck improperly discharged or disposed of liquid sulfuric acid to the environment. Although we understand that you or your representatives are already involved in cleanup of the spill, this Notice serves to officially notify you to immediately cease and desist from any and all such discharging and disposal, and to begin initial abatement activities. Failure to do so shall result in civil penalties and/or criminal charges being brought against you and any other responsible persons/entities. In addition, the Branch may seek an injunction to stop your illegal activities and to compel compliance with the initial abatement steps required in 15A NCAC 2L and/or any other applicable law within the Branch's jurisdiction.

The Inactive Hazardous Sites Response Act ("IHSRA"), codified under N.C. Gen. Stat. § 130A-310, *et seq.*, applies to this site. Also, the Branch has been delegated additional authority, including but not limited to the authority to impose civil penalties under N.C. Gen. Stat. § 143-215.6A and to request the North Carolina Attorney General to seek injunctive relief under N.C. Gen. Stat. § 143-215.6C for violations (or threatened or

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continued violations) of applicable law. Penalties imposed may be up to \$25,000.00 per day depending upon the circumstances. Further, depending upon the chemicals or substances being discharged or disposed of, other state agencies and/or the United States Environmental Protection Agency ("EPA") may have concurrent jurisdiction, and you may be subject to additional action taken separately by such agencies.

I. ACTIONS REQUIRED AT THIS TIME:

Take Initial Abatement Actions Required By Law

Concurrent with ceasing your improper discharging or disposal, you must take the initial abatement actions required by law. Pursuant to 15A NCAC 2L .0106(b), any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance to the groundwaters of the State, or in proximity thereto, shall take immediate action to terminate and control the discharge, and mitigate any hazards resulting from exposure to the pollutants. You must take immediate action to remove and properly dispose of all contaminated soils, liquids, and/or wastes. This includes, but is not limited to, the requirement under 15A NCAC 2L .0106(c) that if groundwater standards have been exceeded, you must take immediate action to eliminate the source or sources of contamination. If initial abatement actions are complete please include any documentation including, but not limited to, post-excavation confirmation analytical sampling data collected, a detailed map showing sample locations and spill areas, waste disposal manifests and quantities of impacted soil, waste water and photo documentation of the cleanup. If contamination is present above the Branch's cleanup levels after immediate abatement activities are completed, any remaining assessment and remediation will be done through the IHSRA.

Complete the Site Cleanup Questionnaire

To comply further with the requirements of State law, a Site Cleanup Questionnaire, available at the website address further below, must be completed and returned to this office. The information you provide will be reviewed along with other information to prioritize the site, so please make certain that the information you provide is complete and accurate.

II. FUTURE ASSESSMENT AND CLEANUP ACTIVITIES:

If future assessment and cleanup activities are necessary (activities conducted after the initial abatement steps required in 15A NCAC 2L), they may be conducted through the Voluntary Cleanup Program (discussed below) or pursuant to an Order issued under N.C. Gen. Stat. § 130A-310.3. In addition, if you choose not to conduct a cleanup through the Voluntary Cleanup Program, the site may be referred to the EPA. If so referred, EPA will screen the site for Federal enforcement action under the Federal Superfund Program, established under the Comprehensive Environmental Responsibility, Compensation, and Liability Act ("CERCLA").

III. VOLUNTARY CLEANUP PROGRAM:

Under the IHSRA, persons who move forward to assess and remediate contamination, without being compelled to do so through formal legal action filed against them, are called "volunteers." To participate in the voluntary cleanup program, you will be required to enter into an administrative agreement with the Branch. The voluntary cleanup will proceed through the Registered Environmental Consultant Program or under direct oversight by the Branch Staff, as discussed below:

Agreement to Conduct Assessment and Remediation Through the Registered Environmental Consultant Program

The Branch has a privatized oversight arm of the voluntary cleanup program known as the Registered Environmental Consultant ("REC") program. Based on the responses provided on the questionnaire (degree of hazard and public interest in the site), the Branch will determine whether a staff person or an REC will perform the oversight and approval of your assessment and cleanup action. Please note that having one or more of the conditions identified on the questionnaire does not necessarily preclude the site for qualifying for an REC-directed cleanup action.

Under the REC program, the volunteer hires an environmental consulting firm, which the State has approved as having met certain qualifications, to implement a cleanup and certify that the work is being performed in compliance with regulations. In other words, the REC's certifications of compliance are in place of direct oversight by the Branch. Details of the REC program can be found at <http://portal.ncdenr.org/web/wm/sf/ihs/recprogram>. If you have any questions specific to the REC Program, including how to participate, please contact the REC Program Manager, Kim Caulk, at (919) 707-8350.

Agreement to Conduct Assessment and Remediation Under State Oversight

If the Branch determines that the site should be assessed and remediated pursuant to direct State oversight, it will not be eligible for a REC-directed cleanup. Rather, the remedial action will receive direct oversight by Branch staff.

IV. ADDITIONAL INFORMATION REGARDING THE IHSRA AND THE BRANCH:

People are often confused by the name of the Inactive Hazardous Sites Response Act and the Branch. By definition, "Inactive Hazardous Sites" are any areas where hazardous substances have come to be located and would include active and inactive facilities and a variety of property types. The term "inactive" simply refers to the fact that cleanup was inactive at large numbers of sites at the time of program enactment. Additional information about the Branch may be found at <http://portal.ncdenr.org/web/wm/sf/ihs/home>.

Please submit completed questionnaire and additional reports to:

Miguel A. Alvalle
Inactive Hazardous Sites Branch
610 East Center Avenue, Suite 301
Mooresville, North Carolina 28117

All documents submitted to the Division in relation to this work must be provided in both paper and in an electronic format designated by the Division (see the Inactive Hazardous Sites Branch website located at <http://portal.ncdenr.org/web/wm/sf/ihs/home> for current specifications on electronic document submittal).

If the Branch learns that you have not immediately ceased all improper discharging and disposal, it intends to commence enforcement action, including seeking injunctive relief. Likewise, you hereby are directed to submit the Site Cleanup Questionnaire to the Branch within thirty (30) days. Should you have questions about the requirements that apply to your site, you should consult an attorney licensed to practice law in the State of North Carolina of your own choosing and at your own expense.

If you have additional questions about the requirements that apply to this site or the suggested additional abatement and investigations outlined in this letter, please contact me at (704) 663-1699 or by email at miguel.alvalle@ncdenr.gov . However, such discussion will not alter or delay any requirement of law.

Nothing contained in this letter waives any right of the State to seek any applicable legal relief of any kind or nature whatsoever against you, your agents or employees.

Sincerely,

A handwritten signature in black ink, appearing to read "Miguel A. Alvalle". The signature is fluid and cursive, with the first name "Miguel" being more prominent and the last name "Alvalle" following in a similar style.

Miguel A. Alvalle,
Hydrogeologist
Department of Environment and Natural Resources
Division of Waste Management
Superfund Section - Inactive Hazardous Sites Branch

Cc: Chris Burch, Hepaco, 6 Dixie Circle, Greenville, SC 29605